

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the U.S. Patent Application of

Thomas BREITBACH et al.

Examiner: Lu, Zhyu

Serial No.: 09/936,834

Art Unit: 2618

Date Filed: September 17, 2001

Docket No.: P-44 MG

Confirmation No.: 1508

Title: Method for Using Standardized Bank Services via the Internet

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

April 16, 2008

REQUEST FOR COMPLETE FINAL OFFICE ACTION

Sir:

Applicants gratefully acknowledge the Office Action dated March 6, 2008 and the recent telephone interview granted by the Examiner. However, the Office Action is incomplete for several reasons. Applicants therefore request that a corrected or supplemental Office Action be mailed.

First, in paragraph 1) on page 2 of the Office Action, it is stated that this application's priority date is March 15, 2000. This paragraph fails to respond to applicants' argument that this application is entitled to claim the March 17, 1999 filing date of the German priority application as follows:

"This application is a national stage application of PCT Application No. DE00/00792 filed on March 15, 2000, which in turn claimed the priority of German Patent Application No. 199 11 782.9 filed on March 17, 1999. A certified copy of the German priority document was filed in this application and has been received in this national stage application from the International Bureau. HBCI Version 2.1 was published no earlier than March 2, 1999, only fifteen days before applicants' claimed priority date." (December 6, 2007 Amendment; Page 7)

These comments are made directly pursuant to 35 USC 119 which states that this application "shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country..." However, there was no response at all to applicants' comments and so the written record provides no clue as to the reason for the failure to acknowledge this application's March 17, 1999 priority date. In the telephone interview subsequent to the Office Action, the Examiner acknowledged that this application is entitled to the March 17, 1999 priority and applicants' request that this be placed on the written record.

Secondly, paragraph 2) on page 2 of the Office Action states that the documents to the Rule 131 Declaration have not been reviewed or treated as evidence. This is improper: "...when reviewing a 37 CFR 1.131 affidavit or declaration, the examiner must consider all of the evidence presented in its entirety, including the affidavits or declarations, and all accompanying exhibits, records and 'notes'." (emphasis added) See MPEP 715.07, 8th Edition, Rev. 6, September 2007, Page 700-283, second column. The Office Action notes that the evidence is non-English, the only reason implied for the refusal to consider the evidence. But there is no MPEP section or other legal authority cited for this position in the Office Action; nor is any authority known to applicants. When queried by applicants' attorney in the telephone interview, the Examiner was unable to cite any authority. Applicants therefore request that the evidence be reviewed and the Office Action be corrected to note the consideration of the evidence.

Thirdly, the Office Action obviously fails to respond on the merits of the Rule 131 Declaration and the documents attached to it as evidence. Applicants note that, although much of the evidence is not in English, when considered along with the allegations of fact made by Dr.

Richard Sinning, the Rule 131 Declaration and documents are sufficient to show an invention prior to the March 2, 1999 reference date. For example, the dates on the documents clearly show that the invention report was received by Dr. Peter Riebling on February 2, 1999. If this fact is regarded as not being shown, then the Office Action should explain why. The invention report also includes the same figure that is utilized in this patent application, and is apparent even to someone who is not fluent in German. If this is regarded as not being sufficient to show conception of the invention, then the Office Action should explain why not. Indeed, pursuant to 707.07, the Office Action should indicate the reason(s) why the Rule 131 Declaration is regarded as being insufficient to establish a date of invention prior to the March 2, 1999 date of the applied reference.

Conclusion

As noted above, the Office Action dated March 6, 2008 is incomplete for several reasons. Thus, applicants request a corrected or supplemental Office Action. Pursuant to MPEP 710.06, applicants request that an appropriate reply period (up to three months) be set from the mailing date of the corrected or supplemental Office Action.

Dated: April 16, 2008

Respectfully submitted,

By: 
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